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To: Commissioner for Patents  
Attn: Examiner David Lukton, Art Unit 1653  
Company: United States Patent and Trademark Office  
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Date: February 25, 2004  
# Of pages: three pages  
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U.S. Serial No. 09/776,466  
Filing Date: February 2, 2001  
Attorney Docket Number: P-087-US1  
Enclosures: Summary of Interview (two pages)

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## CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office, Fax No. (703) 872-9306, on the date shown below:

Dated: Feb. 25, 2004

By:

  
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FEB 25 2004

Patent

Attorney's Docket No. P-087-US1

Customer Number: 27038

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of )

Burton G. Christensen et al. )

Group Art Unit: 1653

Application No.: 09/776,466 )

Examiner: D. Lukton

Filed: February 2, 2001 )

For: GLYCOPEPTIDE DERIVATIVES )

SUMMARY OF INTERVIEW PURSUANT TO 37 C.F.R. § 1.133(b)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

A telephonic interview was held between the Examiner and the undersigned attorney for Applicants on February 25, 2004, for the above-identified patent application. Pursuant to 37 C.F.R. §1.133(b), the following is a written summary of the issues discussed during the interview.

The pending rejection of Claims 1-18 and 20 under 35 U.S.C. §112, first paragraph, and the response filed on December 19, 2003, were discussed. Specifically, with regard to whether "undue experimentation" is required to determine if the presently claimed compounds exhibit antibacterial activity, Applicants pointed out that the present specification contains detailed examples for conducting antibacterial assays and that one skilled in the art would be readily capable of conducting such assays and interpreting the assay results.

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The Examiner indicated that one or more of the presently claimed compounds might be inactive or that one skilled in the art might not be able to determine if a compound is active because of variability in the test data. The Examiner further indicated that no claims would be allowed unless actual test data were submitted.

Applicants noted that there is no legal requirement for actual data and that one of ordinary skill in the art would be able to make and use the claimed invention based on the specification. Accordingly, Applicants noted that the requirements of 35 U.S.C. §112, first paragraph, have been met.

No agreement was reached on the pending 35 U.S.C. §112, first paragraph rejection.

Applicants believe the above summary is a complete and accurate summary of the telephonic interview held on February 25, 2004. If the Examiner believes there are any misstatements or deficiencies in this summary, the Examiner is respectfully requested to correct any such unintentional or inadvertent errors on the record.

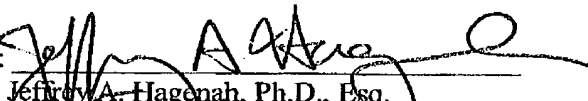
Should there be any questions concerning this paper, the Examiner is requested to telephone the undersigned attorney at (650) 808-6406.

Respectfully submitted,

THERAVANCE, INC.

Date: February 25, 2004

By:

  
Jeffrey A. Hagenah, Ph.D., Esq.  
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